

EILEEN WYANT,

V.

LEXINGTON LAW,

Defendant

**Case No.:**

## COMPLAINT AND DEMAND FOR JURY TRIAL

EILEEN WYANT (“Plaintiff”), by and through her attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against LEXINGTON LAW (“Defendant”):

1. Plaintiff's Complaint is based on the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227 *et seq.*

2. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331. See Mims v. Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).



1           16. Plaintiff also received automated voice messages from Defendant.

2           17. Defendant's telephone calls were not made for "emergency purposes."

3           18. Plaintiff told Defendant to stop calling in early September 2015.

4           19. However, Defendant ignored Plaintiff's request and continued to call.

5           20. It was frustrating and annoying for Plaintiff to receive such continuous and  
6 repeated telephone calls from Defendant on her cellular telephone.

7           21. Ultimately, in order to get the calls to stop, Plaintiff had to begin blocking calls  
8 from Defendant.  
9

10                               **DEFENDANT VIOLATED THE**  
11                               **TELEPHONE CONSUMER PROTECTION ACT**

12           22. Plaintiff incorporates the forgoing paragraphs as though the same were set forth at  
13 length herein.

14           23. Defendant initiated multiple automated telephone calls to Plaintiff's cellular  
15 telephone using a prerecorded voice.

16           24. Defendant initiated these automated calls to Plaintiff using an automatic telephone  
17 dialing system.

18           25. Defendant's calls to Plaintiff were not made for emergency purposes.

19           26. Defendant's calls to Plaintiff, in and after September 2015, were not made with  
20 Plaintiff's prior express consent.

21           27. Defendant's acts as described above were done with malicious, intentional,  
22 willful, reckless, wanton and negligent disregard for Plaintiff's rights under the law and with the  
23 purpose of harassing Plaintiff.  
24  
25

1           28. The acts and/or omissions of Defendant were done unfairly, unlawfully,  
2 intentionally, deceptively and fraudulently and absent bona fide error, lawful right, legal defense,  
3 legal justification or legal excuse.

4           29. As a result of the above violations of the TCPA, Plaintiff has suffered the losses  
5 and damages as set forth above entitling Plaintiff to an award of statutory, actual and trebles  
6 damages.

7  
8 **PRAYER FOR RELIEF**

9           WHEREFORE, Plaintiff, EILEEN WYANT, respectfully prays for a judgment as  
10 follows:

- 11           a. All actual damages suffered pursuant to 47 U.S.C. § 227(b)(3)(A);  
12           b. Statutory damages of \$500.00 per telephone call pursuant to 47 U.S.C. §  
13           227(b)(3)(B);  
14           c. Treble damages of \$1,500.00 per telephone call pursuant to 47 U.S.C.  
15           §227(b)(3) or alternatively that amount for all calls made after Defendant  
16           was notified that they were calling the wrong person and wrong number;  
17           d. Injunctive relief pursuant to 47 U.S.C. § 227(b)(3);  
18           e. Any other relief deemed appropriate by this Honorable Court.

19  
20 **DEMAND FOR JURY TRIAL**

21           PLEASE TAKE NOTICE that Plaintiff, EILEEN WYANT, demands a jury trial in this  
22 case.

23 **CERTIFICATION PURSUANT TO L.CIV.R.11.2**

24           I hereby certify pursuant to Local Civil Rule 11.2 that this matter in controversy is not  
25 subject to any other action pending in any court, arbitration or administrative proceeding.

Respectfully submitted,

By: /s/ Amy Lynn Bennecoff Ginsburg  
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Dated: 12-23-16